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TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
January 27, 2009**

Present: Commissioners Lythgoe, Weber and Kirsch; Matt Johnson, County Attorney; Bill Lloyd, Great West Engineering; Marilyn McCauley, Fair Board; Andre' and Melissa Snitko

CALENDAR REVIEW

- 1/28 Meeting at Extension Office with Northwest Seed - 10:00
Whitehall Community Development Board - 7:00
- 1/29 Meeting to discuss road strategy - 9:00
Meeting with BLM to discuss Coordination - 1:30

COMMISSION REPORTS

LEGISLATURE

Commissioner Weber reported that on Wednesday he went to the legislature to testify regarding uranium water testing grant proposal. Several of the affected homeowners as well as Scott Mendenhall testified. He thinks that they were successful in changing their minds and figuring out a way to get some money.

FEDERAL STIMULUS FUNDS

Commissioner Weber reported that on Thursday the 22nd they met with Pam Haxby-Cote and Eric Nylan with Senator Tester's office to discuss shovel ready projects that could qualify for federal stimulus monies. They also talked about the possibility of changing the definition of "shovel ready" that would allow more projects to be put forward.

HEADWATERS

Commissioner Weber reported that on Thursday afternoon he attended a Headwaters meeting in Butte. They are currently focusing on their area plan.

EXTENSION SERVICES

January 27, 2009 minutes.wpd

Commissioner Weber reported that on the 23rd the Commission met with Steve Siegelin and Extension staff to discuss what they had been working on the past year and future planning. They also discussed the possibility of getting another agent to share with Madison County.

OFFICE OF PUBLIC INSTRUCTION

Commissioner Weber reported that he went to OPI with another parent from Whitehall that morning to discuss special needs students.

INSURANCE

Commissioner Weber reported that the Commissioners met with Owen Voight that morning to discuss options on them bidding on the insurance contract.

RMDC

Commissioner Kirsch reported that he attended the RMDC board meeting on Thursday. They discussed the Big Boulder apartments and he brought up the need for a Head Start program in Boulder.

SOUTH CAMPUS WATER/SEWER UPGRADE

Commissioner Kirsch reported that the previous day he met with engineers and other agencies regarding the South Campus sewer project. The engineers are working on sampling and hope to come up with a shovel ready project.

NORTH END BUSINESS ROUNDTABLE

Commissioner Lythgoe reported that on the 21st he and Commissioner Kirsch attended the north end business roundtable. A lobbyist with the Montana Chamber of Commerce spoke. Commissioner Lythgoe said that he was very knowledgeable.

ROAD ISSUES

Commissioner Lythgoe reported that on the 22nd at 8:00 a.m. he met with Ken Vivrette, Joe Carter on Martinez Gulch to look at the possibility of a RID/RMD. At 9:00 a.m. they were at the Montana City Ranches Commercial subdivision to discuss with Ken and Joe some of the issues that exist there that should have been taken care of before final plat approval. There is an area where there should be a retaining wall where someone cut into the side of the hill. They will be dealing with this issue. Commissioner Weber asked regarding Montana City Ranches Commercial subdivision, several months ago he had Great West go look at this, to assess the possibility of people backing off the hill and this being a dangerous area. Great West felt that they had a berm all around with space left for drainage. He asked if this is the area where the problem is. Commissioner Lythgoe said that nothing that can be done other than put in a retaining wall. He bets that some of the storage units have mud in them, as there is a pretty significant drainage, as well as a drainage problem. The developer has put in a large culvert, but drainage not adequately dealt with at the beginning so runoff is going across the pavement rather than into the drainage.

Joe will be researching to see what can be done.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON FORGIVING BACK TAXES – SNITKO

Commissioner Lythgoe read a letter from Andre' and Melissa Snitko regarding back taxes for a trailer that is no longer in existence. The tax bill was being mailed to Robert and Rose Malmberg who haven't owned the property for the past five years. They didn't purchase the property until September 2007. They weren't aware that there was a separate tax for the house, so they didn't ask about it when they purchased the property. He stated that he doesn't believe that the title company was aware that there was a house on the property, as they were just buying the land. Andre' said that the story behind the house is that when they first moved there in November 2002, there was a mobile home on the property. In 2005, because the mobile home was in very bad shape, they tore it down and with the owner's permission, built a small cabin on part of the frame of the former trailer.

Commissioner Lythgoe stated that he had an assistant talk to the Department of Revenue as well as the Treasurer, and the delinquent taxes for 2002 are \$118.72, 2003 \$271.90, 2004 \$264.74, 2005 \$249.73, 2006 \$437.23 and 2007 \$445.71. The Treasurer's recommendation is that they be required to pay for the taxes for 05-07, and be relieved of the 2002, 2003 and 2004 taxes.

Andre' Snitko stated that they didn't own the property or anything on it until 2007. They were renting in 2002 until they bought the property in 2007. Commissioner Lythgoe asked when they tore down the mobile and built the cabin. Andre stated that this was in 2005. They tore it down and built a cabin over the top of it. Since then, it is a real house; they put a foundation under it and added on. He feels that it should be assessed as a house, as it hasn't been a mobile for some time. Andre' said that he doesn't understand how he can be held accountable for taxes for something that he didn't own.

Commissioner Weber said that he thinks that the advice from the Treasurer comes from the fact that Andre' tore down the mobile home and built a cabin on top of it. Probably from just not knowing, you can't actually tear a trailer apart unless you go through the Treasurer's office and fill out the forms and paperwork in order to dispose of that trailer, because it is real property. Andre said that it seems like someone made a mistake for years.

Commissioner Lythgoe asked when they built the house. Andre' said that they started in 2005 – built a cabin on the mobile frame and have since added on. They bought the property in 2007. Commissioner Weber asked if they have talked to the title company about this. Melissa stated that they didn't know about it. Melissa stated that they have paid the 2008 taxes. The land taxes have been paid and are up to date.

Commissioner Lythgoe moved to forgive the delinquent taxes from 2002 to 2007, as relates to the mobile home that doesn't exist any longer. Commissioner Weber asked what is required to declare the mobile home destroyed and off the tax rolls completely. Do we let the Treasurer's

office know or do they have to file something. He would suggest that they amend the motion to declare the mobile home no longer in existence. Commissioner Weber seconded. The motion carried.

PUBLIC HEARING – PETITION TO ANNEX ADJACENT TERRITORY INTO THE MONTANA CITY FIRE DISTRICT

Commissioner Lythgoe called the hearing to order. He stated that the petition has been certified by the Clerk and Recorder and has been approved by the Montana City Fire District. All homeowner's on Mule Trail Road have signed the petition. Hearing no comments, Commissioner Lythgoe closed the public hearing.

RESOLUTION 06-2009 ANNEXING ADJACENT TERRITORY INTO THE MONTANA CITY FIRE DISTRICT

Commissioner Lythgoe read the resolution as follows:

RESOLUTION 06-2009

RESOLUTION ANNEXING ADJACENT TERRITORY TO THE MONTANA CITY FIRE DISTRICT

WHEREAS, pursuant to § 7-33-2125, MCA, the Board of County Commissioners received a petition requesting the annexation of certain lands adjacent to the Montana City Fire District in Jefferson County. The matter having been published legally on January 14 and January 21, 2009 and now this matter having come before the Board of County Commissioners of Jefferson, Montana for hearing on January 27, 2009 at 2:00 pm; with said Board of County Commissioners having held an open meeting, heard statements and evidence and having reviewed the Petition and various other documents and maps; and with the said Board of County Commissioners being duly advised in the premises; and,

WHEREAS, the Board of County Commissioners of Jefferson County, Montana, has received a written Petition, signed by fifty percent (50%) or more of the owners of the area of privately owned lands proposed to be annexed, seeking the annexation to the Montana City Fire District of adjacent lands; and that said Petition appears to be in proper form and free from legal defect in all respects; and,

WHEREAS, the area subject to the said Petition constitutes lands adjacent to the existing Montana City Fire District that said area and lands are not already part of any fire district; and,

WHEREAS, the area of adjacent lands, subject to the Petition, are described in Exhibits “A” and “B” hereto, which exhibits are by this reference incorporated in these Findings and made a part hereof; and that Exhibit “B” includes a map of the area as an attachment; and,

WHEREAS, the Clerk and Recorder of Jefferson County, has examined said Petition and has determined that the same has been signed by the owners of fifty percent (50%) or more of the said area of adjacent, privately owned lands; and the said Clerk and Recorder has further certified to this Board of County Commissioners that the signers of the Petition constitute a majority of the taxpaying freeholders, within such area, whose names appear on the last completed assessment roll; and,

WHEREAS, the said Petition has been presented to the Board of Trustees of the Montana City Fire District and has been approved by said Trustees; and that said Trustees are willing and able to provide fire protection services to the area subject to the Petition; and,

WHEREAS, due and proper notice of the hearing of said Petition, was duly published in the *Whitehall Ledger*, the newspaper designated by the Jefferson County Board of County Commissioners, respectively, for the publication of legal notices, in the manner required by law; and,

WHEREAS, the Board of County Commissioners has received no written protest to the petition, nor any other written or oral objections to the proposed annexation of adjacent lands; and,

WHEREAS, pursuant to § 7-33-2125, MCA, the annexed territory is required to become liable for outstanding warrants and/or bonded indebtedness, if any, of the original district.

NOW, THEREFORE, on the basis of the foregoing findings, this Board of County Commissioners of Jefferson County, Montana, hereby resolves:

- A. That this Board of County Commissioners has jurisdiction over the subject Petition and over these proceedings.
- B. That the area described in Exhibits “A” and “B” (including the map) which are adjacent to the existing Montana City Fire District, ARE ANNEXED to the said Montana City Fire District.
- C. That, hereafter, at all times and for all purposes, the Montana City Fire District shall comprise and include not only those lands presently included within said Fire District’s

boundaries, but also all of the privately owned lands described in Exhibits “A” and “B” hereto.

- D. That such annexed lands and territory shall be hereafter liable for any outstanding warrants and any bonded indebtedness of the original Montana City Fire District per statutory requirements.

DATED this 27th day of January, 2009.

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Kirsch seconded. Commissioner Weber noted that part of one of the properties is already within the fire district. The motion carried.

**RESOLUTION 07-2009 RESOLUTION OF INTENT TO CREATE MOONLIGHT
RIDGE/JACKSON CREEK RSID**

Bill Lloyd, Great West Engineering presented the exhibits for the resolution. Commissioner Lythgoe asked if there have been any changes made to the original resolution. Bill stated that there are a couple of changes. The assessment list has been updated and there are some changes to the overall costs. The County has decided to continue the maintenance of the road. Because of this, there will be no RMD fees associated with the Jackson Creek portion of the RSID; there will still be maintenance charges for the interior roads in Moonlight Ridge subdivision. There are also some changes to the cost estimates due to the lower price of oil. A final change is that the developer of the Moonlight Ridge subdivision has installed an entrance sign for the subdivision. The residents of Moonlight Ridge have requested that the \$15,000 included in the original RSID for that sign be removed.

Commissioner Weber moved to adopt resolution 07-2009. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON LOAN AND TERM TO SOUTH HOLMES GULCH RMD

Commissioner Lythgoe said that the Commission has gotten information from Great West Engineering. Three options have been presented as far as to a one-year, three-year or a five-year term if the Commission decides to loan the residents of South Holmes Gulch the money to improve that section of road. He stated that the total cost of the project is \$61,001.75 and the total cost of maintenance is \$4,080.00 on an annual basis. They need to decide now if they are going to make the loan, where the money would come from, and the length of the loan.

Great West has drawn up costs for paying back the loan in one, three and five year terms, with a 5% interest rate. Bill stated that the residents would prefer the five-year loan. The payback would be \$3,244.37 on a one-year loan, \$1,260.97/year on a three-year loan and \$865.23/year for a five-year loan.

Bill said that the residents have decided not to do a RSID, due to the added costs of administration fees. This would just cover a small area. The upgrades would consist of blading and shaping the road, establishing drainage and placing culverts, and placing a six-inch layer of gravel as a base course from South Hills Road to just past Mule Trail. The on-going maintenance would include cleaning out of culverts, blading of the road and additional gravel as needed.

Commissioner Weber asked if the maintenance is to be done by an independent contractor. Bill said that this is how the estimate is set up. Commissioner Weber asked what would happen if the bids come in over the costs estimates. Bill said that he is unsure, never having done a stand-alone RMD. This would go through the protest period, so his thinking is that it would follow the procedures of a RSID. He will research this further.

Commissioner Weber said that Frank Stock likes to bid on these types of projects. He hasn't been able to reach him, but there is the possibility of bidding this out for the financing also. Commissioner Lythgoe said that he thinks that this is appropriate. He doesn't know of anyone else that would be interested. Commissioner Weber will follow up on this. Commissioner Lythgoe asked if this doesn't work, if Commissioner Weber has any idea of where to find the money in the county. Commissioner Weber stated that as this is economic development, he would suggest the metal mines revolving loan fund.

Commissioner Weber asked if this RMD has been established. Bill said that it hasn't been. The residents have been waiting direction from the County as to whether the County would be willing to make a short-term loan and with what terms before moving forward with the process.

Commissioner Weber moved to move forward with the financing of the South Holmes Gulch RMD with a five year loan and no greater than 5% interest in the amount \$61,001.75. In the event that they can get private financing they may do so, otherwise the money is to come from the metal mines revolving loan fund. Commissioner Kirsch seconded. The motion carried.

DISCUSS AND DECIDE ON FAIR BOARD BUDGET

Commissioner Lythgoe said that he doesn't understand what happened, how the fair ended up

with no budget. We apparently messed up somewhere, and this needs to be fixed so that they have some money to operate. Commissioner Lythgoe asked if there are any revenues to offset the expenses. Marilyn said that there are rentals, as well as entitlement funds that come in quarterly. Commissioner Weber said that looking at the budget printout, it appears that they have \$40,578 available. Commissioner Lythgoe said that can't be right, because Bonnie is the one that said they needed funding. He called Bonnie to ask what money the fair board has in their budget. They have \$24,590 anticipated from non-tax revenue, i.e. rentals, and fair proceeds that may come in. Bonnie feels that to get them to the fair, they will need about \$10,000. Marilyn said that the budget she prepared is through June, not through the fair.

Commissioner Lythgoe moved to give the fair board \$10,813.00 out of the metal mines fund. He feels that this is economic development. Commissioner Kirsch suggested that it be paid out of PILT. Commissioner Lythgoe said his concern with PILT is that we have no idea what is going to happen with Tunnels. If Tunnels goes down, we won't be getting the metal mines funds. The motion died for lack of a second. Commissioner Weber moved to grant the fair board \$10,813.00 from PILT. Commissioner Kirsch seconded. Commissioner Weber said that he shares Commissioner Lythgoe's concern, but feels that it is more appropriate to come from PILT. The motion carried.

OPPORTUNITY FOR PUBLIC COMMENT

Commissioner Kirsch said that he had a memo from facilities regarding the alarm buttons. Commissioner Lythgoe said that he met with Kathy and with the uncertainty of the mines, he would like to wait until later in the year to make that decision.

Marilyn asked if there will be metal mines grants again this year. Commissioner Weber said that we have about a month until that decision is made. Tom Harrington is working to set up a meeting with the committee to discuss options. Marilyn asked what is happening with the bleachers project. Commissioner Lythgoe and Commissioner Weber said that they are running a little scared. They won't know anything until we know what is happening with the mines.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER